

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 756 of 2004

Between:

- 1 N. Nageswara Rao, S/o. Chennaiah,
Oppicherla PACS Karampudi Mandal, Guntur District.
- 2 M. Veerananarayana, S/o. Nagaiah,
Oppicherla PACS Karampudi Mandal, Guntur District.

..... PETITIONERS

AND

- 1 The Commissioner for Cooperation and Registrar of Coop.Societies Government
of Andhra Pradesh,
Hyderabad.
- 2 The District Cooperative Officer,
Guntur District, Guntur.
- 3 The Divisional Cooperative Officer,
Narsaraopet, Guntur District.
- 4 The Oppicherla PACS,
Karampudi Mandal, Guntur District, rep. by its Chairman/PIC.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned action of the respondents 2 and 3 in directing the 4th respondent society to terminate the service of the petitioners and consequential action of the 4th respondent society in issuing proceedings dated 9-4-2003 for terminating the service of the petitioners as highly illegal, arbitrary and violative of Art.14 of the Constitution of India

Counsel for the Petitioners:MR.G.V.SHIVAJI

Counsel for the Respondents 1 to 3: GP FOR COOPERATION

Counsel for Respondent No.4: Notice returned unserved.

The Court made the following :

ORDER:

The petitioners are the employees of 4th respondent-Oppicherla Primary Agricultural Cooperative Society, Karampudi Mandal, Guntur District. While so, the 4th respondent-Society through impugned order dated 9.4.2003 terminated their services stating that the employees who were appointed after 1995 are liable to be removed from service and that the said appointments were made contrary to Act 2 of A.P. (Regulation of Appointments to Public Services and Rationalization of Staff Pattern and Pay Structure) Act, 1994 (for short 'Act 2 of 1994).

Learned counsel for the respondents submits that the services of the petitioners were terminated after following due procedure

prescribed in law.

It is not in dispute that the employees of the Society are entitled to continue if they are appointed in the sanctioned post in respect of the staffing pattern fixed by the society as approved by the Registrar of Cooperative Societies, subject to the condition that the expenditure of pay and allowances shall not exceed 2% of the working capital or 30% of the gross profit in terms of actuals in a year, whichever is less. It is also open for each Society to revise the staffing pattern and pay & allowances for fulfilling the said conditions of Section 116 (c) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'). Merely because some of these employees have been appointed contrary to Act 2 of 1994, it cannot constitute a ground to remove their services as long as their appointment is in compliance of Section 116 (c) (1) of the Act. If it is a simple removal by the Society in compliance of Section 116 (c) (1) of the Act, this court would not have entertained the writ petition filed by its employees but the action of the societies is pursuant to the directions of the higher authorities removing their employees, whose appointment was made contrary to Act 2 of 1994.

The writ petition is disposed of directing the 4th respondent society to review the impugned order dated 9.4.2003 and take appropriate decision in conformity with Section 116 (c)(1) of the Act, giving the particulars of the staffing pattern fixed by it as approved by the Commissioner and Registrar of Cooperative Societies and pass appropriate orders in accordance with law. No costs.

14.9.2004

cvm

To,

- 1 The Commissioner for Cooperation and Registrar of Coop.Societies Government of Andhra Pradesh,
Hyderabad.
 - 2 The District Cooperative Officer,
Guntur District, Guntur.
 - 3 The Divisional Cooperative Officer,
Narsaraopet, Guntur District.
 - 4 The Oppicherla Primary Agricultural Cooperative Society, Oppicherla.
Karampudi Mandal, Guntur District, rep. by its Chairman/PIC.
- 5 2 CCs to G.P. for Cooperation, High Court of A.P., Hyd. (OUT).
- 6 2 CD copies.